HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 10951 of 2005

Dated: 25th October, 2005

Between:

M/s. Mc.Dowell & Co. Ltd., having its registered office

at Mc.Dowell House, 51 Rich Mond Road, Bangalore-25, rep. by Power of Authority Holder Shri Krishna Swamy Iyenger,

S/o.Ranga Chari, aged about 49 years,

R/o.345-SRT, S.R. Nagar, Hyderabad.

..... PETITIONER

AND

1.The Prl. Secretary to Government, Revenue Department,

Secretariat Building, Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 10951 of 2005

ORDER:

This writ petition has been filed by M/s. Mc.Dowell & Co. Limited represented by its Power of Attorney Holder-Krishna Swamy Iyengar with a prayer to issue a writ or order more particularly one in the nature of writ of Mandamus for a declaration that the action of the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent in issuing the impugned orders dated 24.03.2005 in proceedings No.VSP/87/2004 as arbitrary, illegal and unjust.

2. One Krishna Swamy Iyengar has sworn to the affidavit filed in support of the writ

petition. Details of the affidavit are not required to be dealt in view of the order proposed to be passed.

3. Respondent Nos. 3 and 9 filed separate counter affidavits.

4. The scope of the writ petition is very limited. Learned counsel appearing for the petitioner submitted extensive arguments with regard to the further action to be taken by the competent authority on withdrawing the exemption granted under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976, (for short, 'the Act'), by the government. He refers various provisions of the Act as well as Rules during the course of arguments.

5. To understand precisely the scope of the writ petition, I deem it appropriate to extract the prayer in the writ petition and it is thus:

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ or order more particularly one in the nature of writ of Mandamus for a declaration that the action of the 2nd respondent in issuing the impugned orders dated 24.03.2005 in proceedings No.VSP/87/2004 as arbitrary, illegal and unjust order as it is contrary to the provisions of 8(4), 9, 10(1), 10(3), 10(5) and 10(6) and also contrary to the record of the 3rd respondent and the same may be set aside and consequently to direct the respondents not to create any charge in favour of third parties over the petitioner company land of an extent of 4.3101 hectares, situated at Waltair up lands Visakhapatnam in T.S.No.1011/1A1 A2 pending disposal of the statutory appeal U/S.33 of the Urban Land Ceiling Act, 1976 before the 2nd respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The prayer sought for in the writ petition on its plain reading is stay of implementation of the order of the Special Officer and Competent Authority pending disposal of the appeal filed by it before the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent. It appears the writ petitioner filed an appeal before the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent under Section 33 of the Act against the order of the Special Officer and Competent Authority, Urban Land Ceilings, Visakhapatnam-3rd respondent. The

Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent, by order dated 24.03.2005 in proceedings No.VSP/87/2004 refused to grant interim stay. The operative portion of the order passed by the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent reads as follows:

> "In pursuance of the said directions of the hon'ble High Court, the petition filed U/S.151 CPC seeking interim directions has been heard on 21.03.2005 in the presence of the Counsel for Appellant and Special Government Pleader on behalf of the Govt. Accordingly, the petition has been examined with reference to the reasons stated in the affidavit filed therewith. The appellant in his affidavit accompanying the petition has stated that the first respondent (Principal Secretary to Govt. Revenue Dept.) is going to allot the land in question in favour of 3rd parties and there may be likelihood to encourage the raising of some structures, if that act is allowed the petitioner company will be put to serious irreparable loss and hardship. A perusal of lower court record would reveal that the possession of the land covered by the appeal has already been taken over by the Competent Authority u/s. 10(6) of the Act on 16.01.98 as it stood vested in the State by virtue of notification published u/s.10(3) of the U.L.C. Act, 1976 and the State Government in exercise of their powers u/s.23 of the Act have already allotted the said land to various Govt. Departments/institutions. In other words the subject land is no longer lying in the possession of the appellant.
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> In view of this fact I do not find any merit in the petition seeking for issuance of interim directions for maintenance of status quo and stay further proceedings in CC No.6698/76 on the file of the Second Respondent. Accordingly the petition is rejected and main appeal is posted for hearing on 29.03.2005."

Hence, this writ petition by the appellant viz., M/s. Mc.Dowell & Co. Ltd.

6. Learned Government Pleader for Assignment appearing for the respondents 1 to 4 submits that the appeal filed by the writ petitioner before the Commissioner, Apeals, Urban Land Ceilings, Hyderabad-2nd respondent, has been disposed of on 04.10.2005 and therefore, writ petition has become infructuous. She placed on record copy of the order passed by the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent.

7. Since the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent has disposed of the appeal filed by the writ petitioner, the cause of

action for continuance of the writ petition does not survive and thereby the writ petition has become infructuous. It is left to the petitioner to challenge the order dated 04.10.2005 passed by the Commissioner, Appeals, Urban Land Ceilings, Hyderabad-2nd respondent by taking appropriate proceedings.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 25th October, 2005.

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